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Attorneys for Defendants
LENNAR RENO, LLC and LENNAR RENO, LLC dba LENNAR HOMES

UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

CASE NO.: 3:18-cv-00120-MMD-WGC

**STIPULATION AND [PROPOSED]
ORDER TO REMAND ACTION**

WILLIAM G. and MARISSA J. KRAUS;
MATTHEW AND LEAH COWEN; RALPH
& FRANCES CASTELLI, as Co-Trustees
under THE CASTELLI FAMILY TRUST;
RICHARD & DEBRA MENCHEL;
RICHARD & MARY D. NUNES as Trustees
of the NUNES LIVING TRUST; THOMAS
I. & HEIDI A. SHELTON; RICHARD M.
LUND AND NANCY S. LUND, Trustees of
the LUND FAMILY TRUST, DATED
MARCH 15, 2002; NICK TRAN AND CHI
PHAM; MICHAEL L. VERA; ATAM P.
AND MARGO G. LALCHANDANI, as Co-
Trustees under THE LALCHANDANI
FAMILY TRUST AGREEMENT DATED
JULY 24, 1992; CHARLES E. & CAROL J.
FAGEN as Trustees of the FAGEN LIVING
TRUST; OWEN C. KOCHINSKI,
individually, as husband and wife, and
trustees

Plaintiffs,

v.

LENNAR RENO, LLC and LENNAR RENO,
LLC dba LENNAR HOMES,

Defendants.

1 Plaintiffs and Defendants Lennar Reno, LLC and Lennar Reno, LLC dba Lennar Homes
2 (“Lennar”) (Plaintiffs and Lennar collectively referred to herein as, “Parties”), by and through
3 their counsel of record, hereby stipulate and agree as follows:

4 **RECITALS**

5 A. Plaintiffs or their predecessors in interest, entered into purchase and sale
6 agreements (“PSAs”) with Lennar to purchase certain residences located in the Casa Bella at
7 Damonte Ranch development in Reno, Nevada that are the subject of this action (“Subject
8 Properties”).

9 B. Lennar alleges that the PSAs set forth certain dispute-resolution procedures and
10 requirements, including a requirement for claims regarding the Subject Properties to proceed to
11 binding arbitration.

12 C. On or around November 1, 2016, Plaintiffs began forwarding notices of
13 constructional defects to Lennar regarding the Subject Properties. On February 8, 2018, Plaintiffs
14 filed a complaint against Lennar entitled *Kraus, et al., v. Lennar Reno LLC, et al.*, Washoe
15 County, case no.: CV18-0027.

16 D. Lennar removed the *Kraus, et al., v. Lennar Reno LLC, et al.* action to the U.S.
17 District Court in and for the District of Nevada, on March 15, 2018, and it was assigned case
18 number 3:18-cv-00120-MMD-WGC (the “Litigation”). Plaintiffs thereafter filed a motion to
19 remand the Litigation to state court on April 10, 2018. (ECF No. 7). Lennar opposed Plaintiffs’
20 motion to remand on April 24, 2018. (ECF No. 10). The Court denied the Motion. (ECF No. 23)

21 E. On multiple occasions, Lennar demanded that the Plaintiffs arbitrate their claims
22 regarding the Subject Properties.

23 F. After extensive meeting and conferring, the Parties agree to arbitrate the
24 Claimants’ claims regarding the Subject Properties.

25 G. The parties further agree to remand the action back to the Second Judicial District
26 Court, Washoe County, Nevada, so that the state court will retain jurisdiction over the action
27 pending arbitration.
28

AGREEMENT

WHEREFORE, The Parties hereby STIPULATE AND AGREE to the following:

1. The above-captioned action shall be remanded to the Second Judicial District Court, Washoe County, Nevada. The state court shall retain jurisdiction over the action pending arbitration.

2. The Parties further stipulate that each party shall bear its own attorneys' fees and costs with respect to the removal and subsequent remand of this action pursuant to this stipulation and order but such agreement shall have no effect and shall not be considered by any Court and/or arbitrator in deciding whether to award attorneys' fees and costs to either Party in pursuit and/or in the conclusion of this Litigation as allowed under Nevada law.

IT IS SO STIPULATED.

DATED: December 13, 2018

PAYNE & FEARS LLP

By: /s/ Sarah J. Odia
GREGORY H. KING, NV Bar No. 7777
SARAH J. ODIA, NV Bar No. 11053

Attorneys for Defendants
LENNAR RENO, LLC and LENNAR RENO,
LLC dba LENNAR HOMES

DATED: December 13, 2018

MADDOX, SEGERBLOM and CANEPA, LLP

By: /s/ Ardea G. Canepa-Rotoli
EVA G. SEGERBLOM, NV Bar No. 10749
ARDEA G. CANEPA-ROTOLO, NV Bar No.
12345

Attorneys for Plaintiffs

ORDER

The Court having reviewed the Parties Stipulation to Remand the above-captioned action and good cause appearing, hereby ORDERS as follows:

1. The Parties' Stipulation is approved; and
2. The U.S. District Court for the District of Nevada Case No.: 3:18-cv-00120-MMD-WGC captioned, *William G. and Melissa J. Kraus, et al. v. Lennar Reno, LLC, et al.*, is hereby remanded to the Second Judicial District Court, Washoe County, Nevada.

IT IS SO ORDERED.

Dated: December 13, 2018



U.S. DISTRICT COURT JUDGE

4850-0550-1314.1